

STAND. COM. REP. NO. **3020**

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 2401
H.D. 2
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which
was referred H.B. No. 2401, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CONDOMINIUMS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify the Real Estate Commission's enforcement
authority by authorizing the award of attorneys' fees
and, in certain cases, authorizing the Commission the
discretionary power to decline to bring enforcement
actions; and
- (2) Remove a condominium board's ability to close meetings
and deny participation to association members.

Your Committee received testimony in support of this measure
from the Committee to Protect the Rights of Condominium
Associations' Members and nineteen individuals. Your Committee
received testimony in opposition to this measure from the Real
Estate Commission; Community Associations Institute, Hawaii
Chapter; Hawai'i State Association of Parliamentarians; Hawaii
First, Inc.; Hawaiiana Management Company, Ltd.; and forty-six
individuals. Your Committee received comments on this measure
from the Department of Commerce and Consumer Affairs and one
individual.



Your Committee finds that this measure expands the Real Estate Commission's enforcement authority to include provisions of the condominium law relating to the management of condominiums. However, your Committee further finds that the State's condominiums work on a system of self-governance and including an additional enforcement mechanism for the Real Estate Commission may not be necessary.

Your Committee also finds that for condominiums to continue to function as self-governing entities, as the Legislature originally intended, there must be more transparency in the actions of condominium association boards. Condominium unit owners must also be able to stay informed by obtaining copies of important condominium documents, records, and information to which they are entitled. However, this measure, as written, may not be the best method to achieve these objectives.

Your Committee notes that in subsequent discussions with interested stakeholders on this measure, it became clear to your Committee that the requirements for certain documents, records, and information to be provided to condominium unit owners were in a variety of different sections under chapter 514B, Hawaii Revised Statutes. Your Committee therefore concludes that some of the concerns condominium unit owners have expressed, relating to timely access to appropriate condominium-related documents, would be alleviated if there was one section of the Hawaii Revised Statutes that condominium unit owners, associations, boards, and managing agents could consult for reference. Under existing law, unit owners are entitled to certain documents, records, and information. These owners should not have to go to court or mediation to exercise their rights to these documents, records, and information. One section in the Hawaii Revised Statutes that clearly explains the documents, records, and information that must be released to unit owners will enable unit owners to be better informed and will better support the basic tenet of self-governance under the State's condominium law.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have authorized the recovery of attorneys' fees by the Real Estate Commission and, in certain cases, authorized the Real Estate Commission the discretionary power to decline to bring enforcement actions;



- (2) Deleting language that would have removed a condominium board's ability to close meetings and deny participation to association members;
- (3) Inserting a new section in chapter 514B, Hawaii Revised Statutes, that:
 - (A) Clarifies the documents, records, and information that must be made available to any unit owner and the unit owner's authorized agents; and
 - (B) Specifies that all documents, records, and information shall be provided to the unit owner no later than thirty days after receipt of a unit owner's written request;
- (4) Making conforming amendments to include the new section in chapter 514B, Hawaii Revised Statutes, under the Real Estate Commission's enforcement power;
- (5) Amending the purpose section for clarity; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee notes that this amended measure does not provide unit owners with any new rights. Rather, this amended measure merely consolidates into one section the existing requirements for documents, records, and information that already must be released or provided to unit owners within thirty days.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2401, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2401, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2401 HD2	CPN, JDL	3/18/2014		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"><input type="checkbox"/> Pass, unamended 2312</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div style="text-align: center;"><input type="checkbox"/> Hold 2310</div> <div style="text-align: center;"><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
NISHIHARA, Clarence K.				✓
WAKAI, Glenn				✓
SLOM, Sam	✓			
TOTAL	3	0	0	2
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="text-align: right; margin-top: 10px;"> </div>				
<div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> Distribution: Original File with Committee Report </div> <div style="text-align: center;"> Yellow Clerk's Office </div> <div style="text-align: center;"> Pink Drafting Agency </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Goldenrod Committee File Copy </div> </div>				

*Only one measure per Record of Votes